

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WAFIK AL TAWEL,

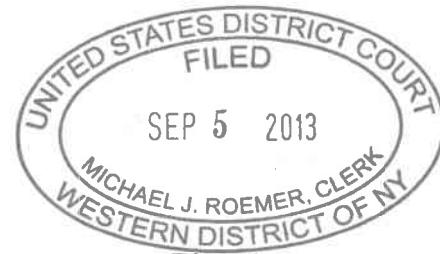
Plaintiff,
v.

DECISION AND ORDER

13-CV-554A

EDWARD NEWMAN, Buffalo Field Office Director;
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY; and UNITED STATES CITIZENSHIP
AND IMMIGRATION SERVICES,

Defendants.



The parties have filed a Joint Motion to Opt Out of Alternative Dispute Resolution, pursuant to Section 2.2 of this District's Alternative Dispute Resolution (ADR) Plan.

In general, plaintiff seeks judicial review of the denial by defendants of his application for naturalization as a United States citizen. The case was filed on May 24, 2013 and United States Magistrate Judge Hugh B. Scott issued a scheduling order on August 7, 2013 which included deadlines for selecting a mediator, for the conducting of an initial mediation session, and for motions to opt out of ADR. This motion has been timely filed.

Motions to opt out of ADR may be granted upon a showing of good cause and the recitation of the reasons why ADR has no reasonable chance of being productive. Here, the parties submit that an applicant for naturalization must meet all statutory requirements for citizenship and that there must be strict compliance with those

requirements. They submit that their opposing views of the facts underlying the application for naturalization simply cannot be mediated to a negotiated settlement. Finally, they observe that the ADR Plan, at Section 2.1 A, provides a list of types of cases which are exempt from automatic referral to mediation and that two such exemptions may apply here.

I find that a case which challenges an administrative decision denying the naturalization of an applicant for citizenship, and which includes a demand that the Court direct the defendants to grant the application, would be exempt from automatic referral to ADR as either seeking an "extraordinary writ" (Plan §2.1 A 1) or as a case "implicating issues of public policy, exclusively or predominantly." (Plan §2.1 A 5). Moreover, the presentation by the parties of the nature of the case and their respective positions establishes good cause for relief from a referral to mediation.

The joint motion of the parties to opt out of ADR is GRANTED.

SO ORDERED.

Dated: September 3, 2013
Buffalo, New York



RICHARD J. ARCARA
United States District Judge